

Chapter 4 - AMUSEMENT DEVICES

ARTICLE I. - ISSUANCE OF LICENSES AND REGISTRATION STICKERS

4-1: - DEFINITIONS.

For the purpose of this article, the words and phrases used herein shall have the meaning set forth in this section. Any other words and phrases not defined in this section shall have their meaning indicated by common dictionary.

Amusement arcade: Any business establishment wherein two (2) or more amusement devices are located on the premises where said amusement devices are a primary source of revenue for said business.

Amusement device: Any machine, game, table or other device designed, intended, displayed or kept as an amusement game or test of skill and for the playing of which a charge is made. Amusement device, when used herein, shall include, but not be limited to, devices commonly known as pinball machines, shuffleboards, bowling machines and coin operated games of skill but shall not include regulation bowling alleys, jukeboxes, pool or billiards tables. Amusement devices shall also include any machine, which upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall further include, but not be limited to, such devices as marble machines, electronic games, skill ball, mechanical grab machines and all games, operations or transactions similar thereto under whatever name they may be indicated. Amusement device does not include a video gaming terminal as defined in the Illinois Video Gaming Act (230 ILCS 40/5) and Chapter 17 of this Code

Gambling: Activities prohibited by the Illinois Criminal Code, 720 Illinois Compiled Statutes 5/28-1 et seq.

Indoor recreational center: Any business establishment where the primary source of revenue of said business is derived from patron fees for recreational activities, including, but not limited to, bowling alleys, roller and ice skating rinks, tennis and racquetball clubs and billiard rooms. The separate area wherein amusement devices are located within an indoor recreational center shall be referred herein as "indoor recreational center arcade area".

Manager or attendant: Any person acting for and in behalf of an operator.

Operator: Any person, firm, corporation, association, partnership, social club, or fraternal organization in immediate control of the premises, including an owner or lessee thereof, within or upon which any devices are displayed or located.

Person, firm, corporation, association, partnership, social club, fraternal organization or individual: Includes the following: any person, firm, corporation, association, partnership, social club, fraternal organization or individual which owns any amusement device, the person, firm, corporation, association, partnership, social club, fraternal organization or individual in whose place of business any such device is placed for use by the public; and the person, firm, corporation, association, partnership, social club, fraternal organization or individual having control over such devices.

(2005 Code)

4-2: - OPERATORS MUST BE LICENSED.

No person, firm, corporation, association, partnership, social club, fraternal organization or individual may possess an amusement device, or be in immediate control of premises upon which an amusement device is located or operated for entertainment purposes, without first obtaining a license in writing from the County of DuPage under the provisions of this section. The application for the license shall be submitted to the Clerk of the County of DuPage, and a verification of information contained in that application shall be conducted by the County Clerk in conjunction with the DuPage County Development Department and the DuPage County Sheriff's Office. The granting or denial of said application shall be determined by the County Clerk in accordance with the provisions of section 4-4 of this article.

(2005 Code)

4-3: - APPLICATION FOR LICENSE.

A. The application for such license shall contain the following information:

1. **Corporation:**

- a. Corporate name, assumed name, if any, and address and the address of the premises for which the license is applied.
- b. Date and place of incorporation.
- c. Corporate purposes as set forth in the articles of incorporation.
- d. Name, address, date and place of birth and social security number of all corporate officers and directors.
- e. Statement of principal kind of business in which corporation engages.
- f. Statement of whether corporate business will be conducted by a manager, and the name, address and authority of any such manager or agent.
- g. Names, dates of birth and addresses of all persons, firms and organizations owning five percent (5%) or more of the corporation's stock.
- h. Names, dates of birth and addresses of all persons, firms, and organizations entitled by verbal or written agreement to a beneficial share of corporate earnings.
- i. A three (3) year history of the corporation's addresses.
- j. A statement of the number of machines and a description to include make, model, cost, and serial number of the amusement devices of the various machines intended to be located in the license premises.
- k. An affidavit attesting to the veracity of the statements contained therein signed by the corporation's president and secretary.
- l. Statement of other licenses of the County of DuPage held by applicant.
- m. A statement denoting legal ownership of the amusement devices which will be located on the premises. This will include the company owner name, address, telephone number and state sales tax number.

2. **Individual or Partnership, Social Club or Other Applicant:**

- a. Name, address, date and place of birth and social security number of applicant.
- b. Location of place of business. In the case of an association, social club or other applicant, the principal place of its meetings or activities.
- c. Principal kind of business engaged in.
- d. Statement of whether business or operation of the device will be conducted by a manager or agent, and the name, address, date and place of birth and social security number of any such manager or agent.
- e. Statement of other licenses of the County of DuPage held by applicant.
- f. Names, dates of birth, addresses and phone numbers of all persons, firms and organizations entitled by verbal or written agreement to a beneficial share of the earnings of the business.
- g. A three (3) year history of the applicant's business and residence address. In the case of an association, social club or other applicant, a three (3) year history of the names and addresses of officers or sponsors.
- h. A statement of the number of machines and a description to include make, model, cost and serial number of the amusement devices of the various machines intended to be located in the license premises.

- B. An application for an initial operator's license and renewal licenses shall be accompanied by a one hundred dollar (\$100.00) license fee for each established place of business. Application fees are nonrefundable, and shall be applied to the cost of the license if the license is granted.
- C. Licenses shall be valid for a period of one (1) year, beginning on September 1 and ending on August 31. All license fees are payable before September 1 of each year. In the event that an application is made for a period of time less than a full license year, the one hundred dollar (\$100.00) license fee shall be prorated based on the number of months that the license will be in effect.
- D. Any change which renders no longer accurate any information contained in any application for an operator's license shall be amended within thirty (30) days after the occurrence of such change on such form as prescribed by the County Clerk, accompanied by an amendatory fee of two dollars (\$2.00).

(2005 Code)

4-4: - GRANTING OF LICENSES.

The County Clerk shall, within a reasonable time after receipt, examine the original application or renewal submitted to him under this section and make a determination as to whether the original application or renewal application submitted to him conforms with the requirements of subsection A of this section. If so determined, the clerk shall grant the applicant an operator's license or renewal in writing for each established place of business. Operators' licenses shall be displayed on the premises in a prominent place.

- A. No person, firm, corporation, association, partnership, social club, fraternal organization or individual shall be issued an initial or renewal amusement device operator's license unless:
 - 1. The premises for which the application is sought complies with all applicable building and zoning ordinances in effect at the time of application.
 - 2. The person or entity seeking the application either owns or leases the premises for which the application is sought.
 - 3. A person, all members of a partnership, all officers, managers, directors of a corporation, any stockholder owning in the aggregate more than five percent (5%) of stock in a corporation, or a manager or attendant in the entity seeking an application has not been convicted of any of the following offenses:
 - a. Gambling, syndicated gambling or keeping a gambling place under article 28, 720 Illinois Compiled Statutes 5/28-1 et seq.
 - b. Pandering, prostitution or other crime of pertaining to moral turpitude.
 - c. Any felony under the laws of any state or the United States of America.
 - 4. Any and all previous licenses have expired at the end of the licensing period in good standing and have not been revoked for cause within one (1) year prior to the application.
 - 5. All information on the application has been verified as deemed necessary by the development department or the sheriff's department. Failure of the applicant to cooperate with the investigation or to furnish requested documents or information shall be cause for denial of the license.
- B. Any operator granted a license under this section shall not be eligible for renewal unless an operator did in fact possess an amusement device or be in immediate control of premises upon which an amusement device is located or operated within the twelve-month period preceding the date for application for renewal.

(2005 Code)

4-5: - REGISTRATION STICKERS.

- A. Upon approval of an amusement device operator's license, the County Clerk shall issue registration stickers for each amusement device on the premises of the operator. These registration stickers shall be displayed in a prominent place on the exterior of each amusement device and shall be valid for one-year period beginning on September 1 of each year and ending on August 31 of the following year. A fee in the amount of ten dollars (\$10.00) shall be paid to the County Clerk for the issuance of each sticker, up to a total of ten (10) stickers. Licensed operators having in excess of ten (10) amusement devices shall be issued additional registration stickers for each device without a fee.
- B. It shall be unlawful for the owner or lessee of any premises or person in control of such premises to permit the installation or use of amusement devices within the County of DuPage, unless a valid registration sticker is displayed on said amusement device. Each amusement device shall be plainly labeled with the name, address and telephone number of its owner. Any additional amusement devices installed will require that an additional "amusement device application form" be submitted with appropriate prorated fees.
- C. It shall be unlawful for any person to mutilate, alter or remove said registration sticker from an amusement device during the period for which it was issued.
- D. Registration stickers may not be transferred from one (1) amusement device to another. In the event that a registration sticker is lost, destroyed, or mutilated, the County Clerk shall issue a replacement sticker without charge for any amusement device previously issued a sticker.
- E. Any licensed operator who acquires or otherwise comes into possession of a new or additional amusement device upon his or her premises within the license period shall make application to the County Clerk for issuance of a new registration sticker for that amusement device within thirty (30) days of acquiring or otherwise coming into possession of the amusement device.

(2005 Code)

ARTICLE II. - REGULATIONS

4-6: - LOCATION RESTRICTIONS.

- A. No person, firm, corporation, association, partnership, social club, fraternal organization or individual shall, as owner, lessee, agent or otherwise, display or permit display of, or operate or permit operation of more than one (1) amusement device per one thousand (1,000) square feet on the premises leased or owned by him, unless it is a game room or indoor recreational center.
- B. No amusement arcade or indoor recreational center arcade area shall be located within three hundred (300) feet of any church, school, or daycare facility. In determining the distance provided for in this section, measurements shall be taken from the closest point on the property line of the lot upon which such church, school, or day care facility is located to the closest point on property line of the lot upon which the amusement arcade or indoor recreational center arcade area is located.
- C. In all game rooms or indoor recreational center amusement device areas, wherein amusement devices are located, there shall be a maximum of one (1) amusement device for each twenty-five (25) square feet of floor area, exclusive of aisles and exit areas.
- D. No more than ten (10) amusement devices shall be allowed in an indoor recreational center. The location of such amusement devices within the indoor recreational center shall be restricted to separate divided areas located on the premises and supervised by the operator, manager or attendant of the indoor recreational center.
- E. The above location restrictions in this section 4-6 shall not apply to any person, firm, corporation, association, partnership, social club, fraternal organization or individual who lawfully displays, permits display of, or operates an amusement device in a legal nonconforming manner at the time of the enactment of this article or any nonconforming game room or indoor recreational center lawfully existing at the time of the enactment of this article.

(2005 Code)

4-7: - UNOBSTRUCTED PREMISES.

- A. A licensee shall provide adequate and orderly parking for all motor vehicles and shall keep the storefront unobstructed so that the sidewalks are clear and open to pedestrian traffic.
- B. The licensee shall cause the premises to remain in a clean and sanitary condition at all times and shall place such waste receptacles in and around the premises so as to accomplish the above.

(2005 Code)

4-8: - SUPERVISION OF OPERATION.

- A. An operator, manager or attendant of twenty-one (21) years of age or older shall be present on the premises of any game room, recreational center, or class A or class B liquor licensee wherein alcohol is served on the premises of businesses open to the public in which amusement devices are located. Such individual of age twenty-one (21) years or older shall be in such a position to have a clear view of all of the amusement devices and activity taking place on the premises.
- B. It shall be unlawful for any licensee or attendant to permit any individual under the influence of alcohol or drugs on the premises where amusement devices are in use. Any operator or manager or attendant who observes any individual on the premises who is under the influence of alcohol or drugs or who suspects such person to be under such influence, shall immediately cause the removal of said person or persons from the premises.

(2005 Code)

4-9: - NO GAMBLING.

- A. It shall be unlawful to permit gambling on those premises wherein amusement devices are located. Any operator, manager, or attendant who observes any gambling on the premises or has reasonable grounds to suspect that gambling is taking place, shall immediately notify the police of such activity.
- B. It shall be unlawful to possess any amusement device which has been mechanically or electronically altered so as to allow the device to be used for gambling purposes, or any device whatsoever which can be construed to be used for gambling as defined under the law of the State of Illinois.
- C. Games or amusement devices on the licensed premises shall not pay off in money, prizes or awards but may grant free games to the player upon the player's reaching a certain score or scores.

(2005 Code)

ARTICLE III. - INSPECTIONS AND ENFORCEMENT

4-10: - INSPECTIONS BY DEVELOPMENT DEPARTMENT.

Authorized representatives of the DuPage County Development Department shall make inspections of the premises of operators licensed or required to be licensed under this article for purpose of determining if premises are in compliance with the regulations stated in article II of this chapter and determining whether all wiring and electrical connections are in compliance with the requirements of the DuPage County Building Ordinance (Chapter 8 of this code) and the zoning requirements of the DuPage County Zoning Ordinance (Chapter 37 of this Code). By applying for a license under this Chapter 4, the owner and operator consent to all inspections under sections 4-10 through 4-14 of this article.

(2005 Code)

4-11: - INSPECTIONS BY SHERIFF'S OFFICE.

Authorized representatives of the DuPage County Sheriff's Office, including sworn peace officers and other individuals as the sheriff may designate from time to time, shall make inspections of the amusement devices upon premises of operators licensed or required to be licensed under this article for purposes of reviewing and examining the display of registration stickers required under section 4-5 of this chapter, and

determining whether each amusement device is properly registered and verifying that the serial number of such amusement devices matches the serial numbers provided in the application for registration stickers. Premises upon which an amusement device is located or reasonably believed to be located shall be inspected for purposes of determining whether the operator is properly licensed if an amusement device is in fact located on the premises.

(2005 Code)

Authorized representatives of the DuPage County Sheriff's Office, including sworn peace officers and other individuals as the sheriff may designate from time to time, may, in the course of their inspections hereunder, also inspect for the presence of video gaming terminals prohibited under Chapter 17 of this Code.

(Ord. OCB-002-09; 8-11-2009)

4-12: - PREMISES TO BE INSPECTED.

Premises that may be inspected in order to determine compliance with this article include all premises used by operator to display or locate any amusement devices.

(2005 Code)

4-13: - OPERATOR ENTITLED TO BE PRESENT.

An operator or licensee shall be entitled to be present during an inspection conducted pursuant to this article, however, the presence of an operator, licensee or authorized representative of an operator or licensee is not a condition precedent to such an inspection.

(2005 Code)

4-14: - TIMING OF INSPECTIONS.

- A. Inspections conducted pursuant to this article may be initiated at any time that business is being conducted or any time an operator, licensee or employee or representative of operator or licensee, other than a mere custodian or watchman, is present, regardless of whether or not the premises are open to the public. The fact that an operator, licensee or their representative or agent leaves the premises after an inspection has been initiated shall not require the termination of the inspection.
- B. Any inspection conducted pursuant to this article shall not continue more than three (3) hours after initiation.
- C. Each premises shall be inspected no less than once and no more than six (6) times within any twelve (12) month period pursuant to this article, except pursuant to a search warrant. Notwithstanding this limitation, nothing in this subsection shall be construed to limit the authority of County employees or representatives or law enforcement officers to respond to public complaints of violations of the DuPage County Code or laws of the State of Illinois. For purposes of this subsection, a public complaint is one in which the complainant identifies himself or herself and sets forth the specific basis for their complaint against the licensee.

(2005 Code)

4-15: - SEARCH WARRANTS.

- A. In the event information comes to the attention of the individuals conducting an inspection that may give rise to the necessity of obtaining a search warrant and in the event steps are initiated for the procurement of a search warrant, the individuals conducting such inspection may take all necessary

steps to secure the premises under inspection until the warrant application is acted upon by a judicial officer.

- B. Nothing in this article shall be construed to limit the authority of the DuPage County Sheriff's Office or other law enforcement officers to conduct searches of licensees pursuant to a duly issued and authorized search warrant.
- C. Any licensee, who having been informed by a person authorized to make inspection under this article that he or she desires to inspect the premises as authorized by this article, refuses to permit such authorized person to make an inspection of the premises in accordance with this article shall subject the license to immediate suspension by the County Clerk.

(2005 Code)

4-16: - DENIAL, SUSPENSION OR REVOCATION OF A LICENSE.

- A. Upon the giving of notice as provided in subsection 4-17A of this article, the license of a person, firm, corporation, association or any other operator issued under this article may be denied, revoked or suspended by the County Clerk without preliminary hearing upon a showing of documents, records or other sufficient evidence that the applicant or operator has:
 - 1. Violated this article, the DuPage County Zoning Ordinance, the DuPage County Building Code of [or] the DuPage County Alcoholic Liquor Control Code;
 - 2. Made any material misrepresentation to the County Clerk or concealed a material fact in connection with an application for a license;
 - 3. Committed an illegal or fraudulent act in connection with the operation of the business establishment upon which an amusement device is located or illegally fraudulent act related to the operation of an amusement device;
 - 4. Failed to file or produce for the County Clerk any application, report, document, or information required to be issued under this article, or for any rule or regulation made by the County Clerk pursuant to this article;
 - 5. Previously had, within the last ten (10) years, any conviction of a crime stated in subsection 4-4A1c of this chapter;
 - 6. Acted in the capacity of a person licensed or acted as a licensee under this article without having a license therefor;
 - 7. Failed to pay any fee due and owing under this article;
 - 8. Failed to pay, within ninety (90) days after a final judgment, any fines assessed against licensee pursuant to this article.
- B. The license of an operator issued under this article may be canceled by the County Clerk in either of the following situations:
 - 1. When a license is voluntarily surrendered by a licensed person;
 - 2. When an individual person or sole proprietor responsible for a licensed establishment either dies or is incarcerated after a conviction for a crime for a period of time exceeding thirty (30) days, provided that notice is given to the incarcerated person pursuant to subsection 4-17A of this article.

(2005 Code)

4-17: - NOTICE AND HEARING.

- A. Whenever the County Clerk is required to give notice under this article of a denial, suspension, revocation or cancellation of a license, such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit in the United States mail in an envelope with postage

prepaid addressed to such person at his address shown by the records of the County Clerk. The giving of notice by mail is complete upon the expiration of four (4) days after the deposit of such notice. Proof of the giving of notice in either such manner may be made by the certificate of any employee of the County Clerk or affidavit of any person naming the person to whom notice was given, and specifying the time, place, and manner of the giving of said notice.

- B. Upon the denial, suspension, revocation or cancellation of a license under this article, the County Clerk shall immediately notify such person in writing, and upon his or her written request, set a date for a hearing to be held within twenty (20) days from receipt of written request or as soon as practicable. The chairman of the County Board shall select a hearing officer or an appeals committee with experience in reviewing administrative decisions, including, but not limited to, member(s) of the County Board or an employee(s) of any County department or office. The hearing officer or appeals committee shall conduct a hearing to consider all oral and documentary evidence presented by the County Clerk and by the party contesting the denial, suspension, revocation, or cancellation of his or her operator's license. After such hearing, the hearing officer or appeals committee shall submit a decision in writing as to whether the County Clerk shall either rescind or, good cause appearing therefor, continue, change or extend his order of denial, suspension, revocation, or cancellation pursuant to the provisions of this article, or reinstate the license of such person. All hearings and hearing procedures shall comply with the requirements of due process and equal protection of the laws. The decision of the hearing officer or appeals committee shall be final.

(2005 Code)

4-18: - INJUNCTIONS.

If any person, firm, corporation, association or other business entity operates in violation of any provision of this article, or any rule, regulation, order or decision of an authorized officer of DuPage County, or any interested party or person injured thereby may apply to the Circuit Court of DuPage County to prevent such violation. The court has jurisdiction to enforce obedience by injunction or other process restraining such person from further violation and enjoining upon him obedience.

(2005 Code)

4-19: - FAILURE TO OBTAIN OPERATOR'S LICENSE, SUSPENDED OR REVOKED LICENSE.

- A. Any person operating a business or other entity for which he or she is required to be licensed under section 4-2 of this chapter who fails to apply for such license or licenses within fifteen (15) days after being informed in writing by the County Clerk that he or she must obtain a license is subject to a civil action brought by the County of DuPage in the Circuit Court of DuPage County. If a person is found to be in violation of section 4-2 of this chapter by operating without being properly licensed, that person shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) for each violation specified in this subsection.
- B. Any person who, having had his license or licenses issued under this article revoked, cancelled, or denied by the County Clerk under section 4-16 of this article continues to operate a business after the effective date of such revocation, suspension, cancellation or denial may be sued in a civil action by the County of DuPage. If such person is found by the court to have operated such a business after the license or licenses required for conducting such business have been suspended, revoked, cancelled, or denied, that person shall be fined one thousand dollars (\$1,000.00) for each violation.
- C. Each day that the unlicensed operation under subsection 4-19A or B occurs or continues shall be deemed a separate violation.

(2005 Code)

4-20: - FAILURE TO DISPLAY A REGISTRATION STICKER.

Any person, firm, corporation, association or other business entity who possesses an amusement device without a valid registration sticker or is in immediate control of premises upon which an amusement device is displayed or located without a valid registration sticker for said device shall be subject to a civil action brought by the County of DuPage in the Circuit Court of DuPage County. If a person is found to have violated section 4-5B of this chapter by failing to display a valid registration sticker shall be fined up to one thousand dollars (\$1,000.00) for each violation.

(2005 Code)

4-21: - SAVINGS CLAUSE.

This article is not intended to be inconsistent or in conflict with any provision of federal or state law. Any inconsistency or conflict between this article and federal or state law shall be resolved in favor of the federal or state law. If any part of this article is found to be invalid or unenforceable by a court of competent jurisdiction, it shall not affect the remaining parts of this article.

(2005 Code)

4-22: - ADOPTION CLAUSE AND EFFECTIVE DATE.

1. Ordinance CD-Z0-002-83, June 28, 1983, are hereby repealed and reenacted by the substitution of the foregoing ordinance in lieu thereof.
2. This chapter shall take effect upon passage of ordinance OFI-002-05. This chapter shall cover and pertain to all persons, firms, corporations, associations, social clubs or other entities who possess or control premises upon which amusement devices are located or operated in accordance with the standards and provisions set forth herein.

(Ord. OJPS-018-93, 10-26-1993; amd. Ord. OPS-001-95, 1-24-1995; 2005 Code)